



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R07-OAR-2021-0932; FRL-9461-02-R7]

Air Plan Approval; Iowa; Determination of Attainment by the Attainment Date for the 2010 1-Hour Sulfur Dioxide Standard

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking final action to determine that the Muscatine sulfur dioxide (SO₂) nonattainment area attained the 2010 1-hour SO₂ primary national ambient air quality standard (NAAQS) by the applicable attainment date of October 4, 2018, based upon a weight-of-evidence analysis using available air quality information. Additional analysis of the attainment determination is provided in a Technical Support Document (TSD) included in the docket to this rulemaking. This action addresses the EPA's obligation under a consent decree which established a deadline of March 31, 2022 for the EPA to determine under Clean Air Act (CAA) section 179(c) whether the Muscatine SO₂ nonattainment area attained the NAAQS by the October 4, 2018, attainment date. The consent decree deadline was extended to June 30, 2022.

DATES: This final rule is effective on **[insert date 30 days after date of publication in the Federal Register]**.

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA-R07-OAR-2021-0932. All documents in the docket are listed on the <https://www.regulations.gov> website.

Although listed in the index, some information is not publicly available, i.e., confidential business information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available through <https://www.regulations.gov> or please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional information.

FOR FURTHER INFORMATION CONTACT: Jason Heitman, Environmental Protection Agency, Region 7 Office, Air Quality Planning Branch, 11201 Renner Boulevard, Lenexa, Kansas 66219; telephone number: (913) 551-7664; email address: heitman.jason@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document "we," "us," and "our" refer to EPA.

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I. What is Being Addressed in this Document?

The EPA is taking final action to determine that the Muscatine SO₂ nonattainment area attained the 2010 1-hour SO₂ primary NAAQS by the applicable attainment date of October 4, 2018, based upon a weight-of-evidence analysis using available air quality information. This action also fulfills the EPA's obligation under a consent decree in *Center for Biological Diversity, et al. v. Regan*, No. 3:20-cv-05436-EMC (N.D. Cal June

25, 2021), which established a deadline of March 31, 2022, for the EPA to determine under CAA section 179(c) whether the Muscatine SO₂ nonattainment area attained the NAAQS by the October 4, 2018, attainment date. The consent decree deadline was extended by stipulation to June 30, 2022.

II. Determination

CAA section 179(c)(1) requires the Agency to "determine, based on the area's air quality as of the attainment date, whether the area attained the standard by that date."

On January 26, 2022, the EPA published a notice of proposed rulemaking (NPRM) to determine that the Muscatine SO₂ nonattainment area attained the NAAQS by the October 4, 2018, attainment date. (87 FR 3958) During the comment period on EPA's NPRM, open from January 26, 2022, to February 25, 2022, EPA received no comments.

As discussed in the NPRM, the EPA first assessed what air quality information was available related to making a determination of attainment by the attainment date for the Muscatine area. The EPA chose to employ a weight-of-evidence approach for making this determination because the EPA does not have any analysis (including modeling) associated with the monitor siting to demonstrate that the monitors record maximum ambient SO₂ concentrations in the NAA, nor does EPA have modeling of actual emissions to support a determination based on modeled ambient concentrations whether the area attained the NAAQS by the attainment date. The available modeling of permitted

allowable emissions in the area, as discussed in the NPRM, does not on its own provide a basis for determining whether the area attained by the attainment date. Thus, EPA relied upon SO₂ emissions data and trends, relevant air monitoring data and trends, SO₂ monitoring data incorporated with local meteorological data, as well as available modeling information in order to make its determination under CAA section 179(c)(1).

The EPA finds that the analysis of multiple types of air-quality related information supports our determination and is consistent with section 179(c)(1)'s direction to determine the area's air quality as of the attainment date. Further detail on EPA's weight-of-evidence analysis is contained in the NPRM and TSD included in the docket for this action.

As discussed in the NPRM and in the TSD, we find that the weight of the available evidence indicates that the Muscatine area attained the 2010 1-hour SO₂ NAAQS in the 2015-2017 timeframe by the October 4, 2018, attainment date. Specifically, the significant reductions in emissions during the relevant time period from sources within the nonattainment area and a nearby source outside the nonattainment area, coupled with corresponding decreased monitored SO₂ concentrations within the nonattainment area during that same time period lead us to our determination that the area attained by its attainment date.

III. Final Action

The EPA conducted a weight-of-evidence analysis, described in detail in the NPRM and the TSD, to determine if the Muscatine

SO₂ nonattainment area attained the 2010 1-hour SO₂ NAAQS by the October 4, 2018, attainment date by evaluating all available technical information and data relevant to the SO₂ air quality (e.g., emissions, monitoring, meteorological data, and modeling) in the Muscatine, Iowa, area. Based on the analysis and information presented in the NPRM and the TSD contained in the docket for this action, the EPA determines that the Muscatine SO₂ NAA attained the 2010 1-hour SO₂ standard by the applicable attainment date of October 4, 2018, consistent with CAA section 179(c)(1).

On January 26, 2022, the EPA published a NPRM to determine that the Muscatine SO₂ nonattainment area attained the NAAQS by the October 4, 2018, attainment date. (87 FR 3958) The EPA sought public comment on the proposed determination and received no comments. Therefore, the EPA is finalizing the determination as proposed.

In addition, this action addresses EPA's obligation under a consent decree in *Center for Biological Diversity, et al. v. Regan*, which established a deadline of March 31, 2022, for the EPA to determine under CAA section 179(c) whether the Muscatine County SO₂ nonattainment area attained the NAAQS by the October 4, 2018, attainment date. The consent decree deadline was extended by stipulation to June 30, 2022.

This action does not constitute a redesignation of the Muscatine SO₂ NAA to attainment for the 2010 1-hour SO₂ NAAQS under CAA section 107(d)(3) because we have not yet approved a

maintenance plan for the area as meeting the requirements of section 175A of the CAA and have not determined that the area has met the other CAA section 107(d)(3)(E) requirements for redesignation. The classification and designation status in 40 CFR part 81 will remain nonattainment until the EPA has determined that Iowa has met the CAA requirements for redesignation to attainment for the Muscatine SO₂ nonattainment area.

IV. Environmental Justice Concerns

When the EPA establishes a new or revised NAAQS, the CAA requires the EPA to designate all areas of the U.S. as either nonattainment, attainment, or unclassifiable. Area designations address environmental justice concerns by ensuring that the public is properly informed about the air quality in an area.

The EPA utilized the EJSCREEN tool to evaluate environmental and demographic indicators within the area. The tool outputs report is contained in the docket for this action. While the EPA's EJSCREEN tool demonstrates that demographic indicators are consistent or lower than national averages, there are vulnerable populations in the area including low-income populations and persons over 64 years of age.

This action addresses EPA's determination, as required by the CAA, of whether the Muscatine County, Iowa, area attained the 2010 1-hour SO₂ NAAQS by the relevant attainment date. This action determines an area has attained the NAAQS by the relevant attainment date, but it does not change the geographic status of

the area nor does it impose additional or modify existing requirements on sources. Based on the information presented in the NPRM and the TSD, the EPA determines that the air quality in the Muscatine County area is attaining the NAAQS. For these reasons, this action does not result in disproportionately high and adverse human health or environmental effects on minority populations, low-income populations and/or indigenous peoples.

V. Statutory and Executive Order Reviews

This action determines an area has attained the NAAQS by the relevant attainment date and does not impose additional or modify existing requirements. For that reason, this action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);

- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of the National Technology Transfer and Advancement Act (NTTA) because this rulemaking does not involve technical standards; and
- This action does not have disproportionately high and adverse human health or environmental effects on minority populations, low-income populations and/or indigenous peoples, as specified in Executive Order 12898 (59 FR 7629, February 16, 1994). The basis for this determination is contained in section IV of this action, "Environmental Justice Concerns."
- This action is subject to the Congressional Review Act, and the EPA will submit a rule report to each House of the Congress and to the Comptroller General of the United States. This action is not a "major rule" as defined by 5 U.S.C. 804(2).
- Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by **[insert date 60 days after date of publication in the Federal Register]**. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action

for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements (see section 307(b)(2)).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control,
Incorporation by reference, Intergovernmental relations,
Reporting and recordkeeping requirements, Sulfur oxides.

Dated: March 31, 2022.

Meghan A. McCollister,
Regional Administrator,
Region 7.

For the reasons stated in the preamble, the EPA amends 40 CFR part 52 as set forth below:

PART 52--APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart Q-Iowa

2. Revise §52.834 to read as follows:

§52.834 Control strategy: Sulfur dioxide.

(a) *Approval.* On April 21, 1997, the Iowa Department of Natural Resources (IDNR) submitted a maintenance plan and redesignation request for the Muscatine County nonattainment area for the 1971 SO₂ national ambient air quality standard (NAAQS). The maintenance plan and redesignation request satisfy all applicable requirements of the Clean Air Act.

(b) *Determination of attainment by the attainment date.* As of **[insert date 30 days after date of publication in the Federal Register]**, the EPA has determined that the Muscatine, Iowa SO₂ nonattainment area has attained the 2010 1-hour SO₂ primary NAAQS by the applicable attainment date of October 4, 2018.